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C O N F I D E N T I A L TUNIS 000196

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DEPT FOR NEA AND L
ROME AND PARIS FOR ABMC

E.O. 12958: DECL: 04/01/2019

TAGS: PREL OFDP ODIP ABMC TS

SUBJECT: GOT CONDITIONS CEMETERY VAT EXEMPTION ON LES
EMPLOYEE LIST

REF: TUNIS 184

Classified By: Ambassador Robert F. Godec, Reason 1.5 (b)

¶1. (SBU) This is an action request. See paragraph 6.

¶2. (SBU) On March 31, the Ministry of Foreign Affairs (MFA) informed us that the Value Added Tax (VAT) exemption for the North Africa American Cemetery and Memorial had been granted. When the Mission actually received a copy of the letter from the Ministry of Finance (MOF) to the MFA, the MOF had withdrawn the condition for the withholding and reporting of Tunisian employee income taxes but replaced it with a requirement that the Embassy provide a list of all of its Tunisian employees. We have verified that the exemption will not be issued until the MOF receives the list.

¶3. (SBU) We are aware that the Ambassador has the authority (3 FAM 7361) to provide the host government such a list unless the "chief of mission deems it undesirable or disadvantageous to cooperate for administrative, political or security reasons." Nevertheless, we note that the MOF is imposing a condition for the Mission to receive a right to which it is entitled under the Vienna Convention on Diplomatic Relations. Such VAT exemptions have been previously granted without any such pre-conditions. Moreover, we note that the Embassy has been asked on at least one previous occasion, in 1999, to provide an employee list to the MOF. At that time, the Embassy declined, according to an Embassy internal memo, because it concluded that as the result of "bureaucratic complexities here" it would "not be desirable or advantageous" to do so.

¶4. (C) The condition being imposed by the MOF is somewhat odd, however, since in fact we submit social security payments for all but three of our employees (the three being covered by Civil Service Retirement with the full knowledge and agreement of the GOT). Those payments, a fixed percentage of LES salaries established by local law, effectively inform the GOT social security agency (which operates under the Ministry of Social Affairs) of who works at the Embassy and their salaries.

¶5. (C) Nonetheless, word of the text of the MOF letter has sent a visible shock wave through our LES community. Despite a variety of reminders to all LES that they must pay their taxes, it is apparent that many are not doing so. The Embassy handbook for LES clearly states the obligation to pay all local taxes and all newly-hired employees are required to sign a salary document that states the approximate tax rate that they will owe to the Tunisian government. Regardless of the legalities of the matter, a systematic focus on the LES by the MOF is likely to cause a major disruption to Embassy operations.

¶6. (SBU) Action request: We do not believe it is appropriate for the GOT to condition the VAT exemption on the provision of a list of Embassy employees. Nevertheless, we would appreciate Department guidance on whether we should accede to the conditionality being imposed by the Ministry of Finance or whether it is an unacceptable infringement on our rights under the Vienna Convention on Diplomatic Relations. End Action Request.

Godec